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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
YIGDALL, MICHAEL J	
ART UNIT	**PAPER NUMBER**
2192	

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/833,845	MATENA ET AL.	
	Examiner	Art Unit	
	Michael J. Yigdall	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-8 and 10-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-8 and 10-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is responsive to Applicant's submission filed on November 25, 2005. Claims 1, 4-8 and 10-13 are pending.

Response to Arguments

2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection.

Claim Objections

3. Claims 1 and 8 are objected to because of the following informalities: Claims 1 and 8 recite that "the original control module and the upgraded control module respectively supervise a life cycle of the original control module and the upgraded control module." However, Applicant's remarks indicate that the control module "supervises the life cycle of a service module" (remarks, page 6, fourth paragraph), rather than the life cycle of a control module. Furthermore, claim 8 recites "an application on a server without remote client execution, the execution being in a middle-tier between a client browser and databases." However, the claim language is not clear as to whether there is *any* execution of the application that could be in a middle tier. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 4-8 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,920,725 to Ma el al. (art of record, "Ma") in view of U.S. Patent No. 6,976,079 to Ferguson et al. (now made of record, "Ferguson").

With respect to claim 1 (currently amended), Ma discloses a method for performing an online upgrade to a JAVA application (see, for example, the abstract, which shows a method for performing an online upgrade to an application, and column 13, lines 18-39, which shows that the application is a JAVA application), the method comprising:

(a) executing an application on a server without remote client execution, the execution being in a middle-tier between a client browser and databases (see, for example, FIG. 5, which shows executing a server application 86 in a middle-tier server 90 between a remote client 88 and an application database 64, and column 7, lines 54-56, which shows a remote client that is idle or without remote client execution), the application having an original service module (see, for example, objects 82 in FIG. 5) and an original control module (see, for example, object adaptor 80 and workflow adaptor 84 in FIG. 5), wherein the original control module includes application-specific policies for the application defining application-specific strategies and policies for the application (see, for example, application-specific rules 81 in FIG. 5, and column 8, lines 37-39 and 58-62), and the original service module includes actual code for the application (see, for example, column 13, lines 49-55).

Ma further discloses defining upgraded application-specific policies relative to the original control module (see, for example, column 8, line 55), but does not expressly disclose:

(b) generating an upgraded control module defining upgraded application-specific policies relative to the original control module.

However, Ferguson discloses an analogous method for performing an online upgrade to a JAVA application (see, for example, the abstract, and column 2, lines 25-37) that comprises executing an application on a middle-tier server (see, for example, FIG. 1) without remote client execution (see, for example, column 1, lines 42-56). In addition to upgrading the application software, or the module that includes the code for the application, Ferguson also discloses upgrading the server software, or the module that controls the application on the server (see, for example, column 6, lines 8-22), so as to provide new or more reliable functionality in either module (see, for example, column 1, lines 32-41). The application software and server software are comparable to the service module and control module of Ma, respectively.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to generate an upgraded control module in Ma, so as to provide new or more reliable functionality in that module, such as taught by Ferguson.

Ma in view of Ferguson further discloses the upgraded control module being defined by upgraded class files (see, for example, new object class 68 in FIG. 3, and column 6, lines 58-60) loaded from a system repository that is part of the databases (see, for example, meta object database repository 62 in FIG. 3, and column 6, lines 39-40 and 52-55); and

(c) creating an upgraded service module using the upgraded control module (see, for example, column 8, lines 10-13), the upgraded service module is generated using upgraded class files for the upgraded service module loaded from the system repository (see, for example, new object class 68 and meta object database repository 62 in FIG. 3, and column 6, lines 31-34, 52-

55 and 58-60), the application providing online execution services when upgrading the original control module and original service module (see, for example, column 4, lines 59-63, which shows that the application provides online execution services when upgrading the modules), wherein the original control module and the upgraded control module respectively supervise a life cycle of the original control module and upgraded control module (see, for example, FIG. 8, which shows that object adaptor 80 supervises a life cycle of the original and upgraded modules), such that the application-specific strategies and policies for the application are maintained during execution (see, for example, column 8, line 66 to column 9, line 5).

With respect to claim 4 (previously presented), the rejection of claim 1 is incorporated, and Ma in view of Ferguson further discloses the operation of disabling requests to the original service module (see, for example, column 7, lines 22-25 and 40-45, which shows disabling requests to the original objects by marking them as invalid and deleting them).

With respect to claim 5 (original), the rejection of claim 4 is incorporated, and Ma in view of Ferguson further discloses the operation of enabling requests to the upgraded service module (see, for example, column 7, lines 22-25 and 40-45, which shows enabling requests to the upgraded objects by loading and instantiating them).

With respect to claim 6 (original), the rejection of claim 1 is incorporated, and Ma in view of Ferguson further discloses the operation of upgrading a child application using the upgraded control module (see, for example, column 7, lines 46-51).

With respect to claim 7 (previously presented), the rejection of claim 6 is incorporated, and Ma in view of Ferguson further discloses the operation of passing the application-specific policies to a control module of the child application (see, for example, column 8, lines 20-25).

With respect to claim 8 (currently amended), Ma discloses a JAVA platform capable of performing online software upgrades (see, for example, the abstract, which shows a platform capable of performing online software upgrades, and column 13, lines 18-39, which shows that the platform is a JAVA platform), the JAVA platform comprising:

(a) an application on a server without remote client execution, the execution being in a middle-tier between a client browser and databases (see, for example, FIG. 5, which shows a server application 86 in a middle-tier server 90 between a remote client 88 and an application database 64, and column 7, lines 54-56, which shows a remote client that is idle or without remote client execution), the application having an original service module (see, for example, objects 82 in FIG. 5) and an original control module (see, for example, object adaptor 80 and workflow adaptor 84 in FIG. 5), wherein the original control module includes application-specific policies for the application defining application-specific strategies and policies for the application (see, for example, application-specific rules 81 in FIG. 5, and column 8, lines 37-39 and 58-62), the original service module includes actual code for the application (see, for example, column 13, lines 49-55); and

(b) a repository that is part of the databases having upgraded class files for the original control module and upgraded class files for the original service module (see, for example, meta object database repository 62 and new object class 68 in FIG. 3, and column 6, lines 39-40 and 52-55),

Ma further discloses defining upgraded application-specific policies relative to the original control module (see, for example, column 8, line 55), but does not expressly disclose:

(c) wherein the original control module is upgraded by generating an upgraded control module defining upgraded application-specific policies relative to the original control module.

However, Ferguson discloses an analogous JAVA platform capable of performing online software upgrades (see, for example, the abstract, and column 2, lines 25-37) that comprises an application on a middle-tier server (see, for example, FIG. 1) without remote client execution (see, for example, column 1, lines 42-56). In addition to upgrading the application software, or the module that includes the code for the application, Ferguson also discloses upgrading the server software, or the module that controls the application on the server (see, for example, column 6, lines 8-22), so as to provide new or more reliable functionality in either module (see, for example, column 1, lines 32-41). The application software and server software are comparable to the service module and control module of Ma, respectively.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to generate an upgraded control module in Ma, so as to provide new or more reliable functionality in that module, such as taught by Ferguson.

Ma in view of Ferguson further discloses the upgraded control module being defined by upgraded class files (see, for example, new object class 68 in FIG. 3, and column 6, lines 58-60) loaded from the system repository that is part of the databases (see, for example, meta object database repository 62 in FIG. 3, and column 6, lines 39-40 and 52-55), and wherein the original service module is upgraded by creating an upgraded service module using the upgraded control module (see, for example, column 8, lines 10-13), the upgraded service module is generated

using upgraded class files for the upgraded service module loaded from the system repository (see, for example, new object class 68 and meta object database repository 62 in FIG. 3, and column 6, lines 31-34, 52-55 and 58-60), the application providing online execution services when upgrading the original control module and original service module (see, for example, column 4, lines 59-63, which shows that the application provides online execution services when upgrading the modules), wherein the original control module and the upgraded control module respectively supervise a life cycle of the original control module and upgraded control module (see, for example, FIG. 8, which shows that object adaptor 80 supervises a life cycle of the original and upgraded modules), such that the application-specific strategies and policies for the application are maintained during execution (see, for example, column 8, line 66 to column 9, line 5).

With respect to claim 10 (previously presented), the rejection of claim 8 is incorporated, and the limitations recited in the claim are analogous to those of claim 4 (see the rejection of claim 4 above).

With respect to claim 11 (previously presented), the rejection of claim 10 is incorporated, and the limitations recited in the claim are analogous to those of claim 5 (see the rejection of claim 5 above).

With respect to claim 12 (previously presented), the rejection of claim 8 is incorporated, and the limitations recited in the claim are analogous to those of claim 6 (see the rejection of claim 6 above).

With respect to claim 13 (previously presented), the rejection of claim 12 is incorporated, and the limitations recited in the claim are analogous to those of claim 7 (see the rejection of claim 7 above).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MY

Michael J. Yigdall
Examiner
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mjy

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SUPERVISORY PATENT EXAMINER